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THE SITUATION IN CENTRAL AMERICA: PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

Note by the Secretary-General

1. The attached document contains the sixth report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA). It covers the period from 1 July to 31 December 1996, during which the peace process continued, with the signing of all pending agreements, and culminated in the signing, in Guatemala City on 29 December, of the Agreement on a Firm and Lasting Peace. In accordance with the practice established since the Mission's inception, I shall convey a copy of this report to the United Nations High Commissioner for Human Rights, with the request that it be transmitted to the members of the United Nations Commission on Human Rights.

2. Over the past six months, the Mission has continued to carry out its normal activities. In its sixth report, it presents a careful analysis of how the human rights situation in Guatemala has evolved and makes specific recommendations designed to assist the Government in carrying out its firm commitment to make the changes needed to improve the situation.

3. Once again, I wish to thank the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) for their cooperation with the Mission, without which it would have been unable to function. I also wish to thank the Group of Friends of the Guatemalan Peace Process (Colombia, Mexico, Norway, Spain, the United States of America and Venezuela) for their tireless support for the Mission and for the Organization's peace efforts in Guatemala; the Governments of Argentina, Brazil, Canada, Colombia, Italy, Spain and Sweden for continuing to contribute police personnel to the Mission; and the Governments of Brazil, Spain, Sweden, Uruguay and Venezuela for providing the services of their military officers.

4. The Mission continued to receive cooperation and support from the members of the United Nations system in Guatemala, represented by the Resident Coordinator of Operational Activities for Development of the United Nations System in Guatemala, for which I am very grateful. I also wish to note the special contribution made by the United Nations Volunteers Programme through the volunteer experts currently working in MINUGUA.

ANNEX

Sixth report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala

I. INTRODUCTION

1. During the period covered by this report (1 July to 31 December 1996), the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) continued to carry out its mandate of verifying compliance by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) with the Comprehensive Agreement on Human Rights (hereinafter referred to as the "Comprehensive Agreement"), signed on 29 March 1994 (A/48/928-S/1994/448, annex I), and with the human rights aspects of the Agreement on Identity and Rights of Indigenous Peoples (hereinafter referred to as the "Agreement on Indigenous Rights"), signed on 31 March 1995 (A/49/882-S/1995/256, annex).

2. The Mission continued to receive complaints of alleged human rights violations and to carry out cooperation programmes for the strengthening of institutions responsible for the protection of those rights. The international community continued and even increased its support for the Mission's work, through financial contributions to the Trust Fund for the Guatemalan Peace Process and contributions of professionals and equipment.

3. As stipulated in the Comprehensive Agreement, the Mission continued its contacts with each of the signatories. These contacts took the form of meetings with the President of the Republic or his ministers in Guatemala City and with the URNG General Command in Mexico City. The Mission also increased its contacts with the Presidential Human Rights Commission (COPREDEH) and with other relevant State entities.

4. In his report to the General Assembly dated 26 November 1996 (A/51/695-S/1996/998), the Secretary-General recommended, inter alia, that the Mission's mandate should be extended for a period of three months, that is, until 31 March 1997. He also recommended that MINUGUA should be authorized to verify the implementation of all urgent measures adopted during that three-month period. In its resolution 51/198 of 17 December 1996, the General Assembly took note with satisfaction of the fifth report of the Director of the Mission; welcomed the steps taken by the Government of Guatemala to combat impunity; called upon the Government of Guatemala and URNG to continue their efforts to comply with their commitments under the Comprehensive Agreement on Human Rights and with the human rights aspects of the Agreement on Indigenous Rights; decided to authorize the renewal of the Mission's mandate until 31 March 1997, in accordance with the recommendations of the Secretary-General; and invited the international community to intensify its support for the peace process, and in particular for the implementation of the peace agreements, inter alia, through voluntary contributions to the Trust Fund for the Guatemalan Peace Process established by the Secretary-General.

5. Since the fifth report was issued, the Government and URNG (hereinafter referred to as "the parties") have signed the agreements pending on the negotiating timetable, namely, the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (hereinafter referred to as the "Agreement on the Strengthening of Civilian Power"), signed in Mexico City on 19 September 1996 (A/51/410-S/1996/853, annex); the Agreement on the Definitive Ceasefire, signed in Oslo on 4 December 1996 (S/1996/1045, annex); the Agreement on Constitutional Reforms and the Electoral Regime (hereinafter referred to as the "Agreement on Constitutional Reforms"), signed in Stockholm on 7 December 1996, and the Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca (hereinafter referred to as the "Agreement on the Integration of URNG"), signed in Madrid on 12 December 1996 (A/51/776-S/1997/51, annexes I and II respectively); the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements, signed in Guatemala City on 29 December 1996, and completing the negotiating process, the Agreement on a Firm and Lasting Peace, signed in Guatemala City on the same day in the presence of the Secretary-General of the United Nations, the United Nations Under-Secretary-General for Political Affairs and the United Nations Moderator for the peace process (A/51/796-S/1996/114, annexes I and II respectively).

II. CONTEXT IN WHICH THE MISSION IS OPERATING

6. The period was marked by progress in the negotiating process, which culminated in the signing of the Agreement on a Firm and Lasting Peace and created a more favourable context for the development of the human rights situation in Guatemala. At the same time, the Government took important steps to purify and professionalize the security forces and to dismantle counter-insurgency support structures. Nevertheless, the continuing lack of public safety and the intensification of some social conflicts limited the population's optimism at the ending of the internal armed conflict.

7. The peace negotiations concluded successfully, despite having been suspended from 28 October to 9 November owing to the participation of URNG members in a kidnapping for ransom. This action was condemned nationally and internationally and described by the Mission as a serious violation of the Comprehensive Agreement. Negotiations resumed after the URNG General Command took political responsibility for the kidnapping, suspended armed propaganda actions, proposed immediate ceasefire negotiations and announced the withdrawal of one of its members from the negotiating table.

8. In the context of the commitment to purify and professionalize the security forces, note should be taken of the dismissal of senior State officials, including a Deputy Minister of Defence and other senior army officers, a Deputy Minister of the Interior and police chiefs, and civilian officials accused of belonging to a criminal organization whose alleged leader was arrested on 14 September (see para. 33).

9. In the context of the dismantling of counter-insurgency support structures, the Government proceeded to disarm and disband the Voluntary Civil Defence Committees (CVDCs) and the "peace and development committees", during public

tributes to their activities organized by the armed forces in many parts of the country. On 28 November, the Congress of the Republic initiated the procedure for repealing Decree No. 19-86, which confers legal status on such organizations. Also of note are the commitments made by the parties, in the Agreement on the Strengthening of Civilian Power, concerning the professionalization of civilian security forces, the redefinition of the role of the armed forces in matters of internal security and their institutional dissociation from the dismantled structures.

10. Optimism at the progress in the peace process was limited by the lack of public safety, continuing high levels of ordinary crime and lack of confidence in the State institutions responsible for preventing, investigating and punishing such crimes. Despite the Government's efforts, kidnapping by gangs increased and affected all social sectors. During the period under review, there were further lynchings of alleged criminals. Another symptom of public frustration was the broad support for the imposition of the death penalty. The 11 September public execution by firing squad of two criminals convicted of rape and murder, which was reported to the Inter-American Commission on Human Rights (IACHR) and the Mission, prompted a debate over capital punishment and the involvement of the two international bodies.

11. The period under review saw the continuation of social conflicts, many of them linked to agrarian issues and labour rights. The different strategies adopted by the Government for dealing with such conflicts achieved contrasting results. For example, during the 25 September eviction by the National Police of a group of peasants who had occupied a farm in Los Ocós, San Marcos, one person was killed and dozens more injured. On the other hand, the Government managed to resolve other conflicts through dialogue and negotiation, for instance, the takeover by workers of the Compañia Petrolera BASIC plant in the department of Petén in late November and the blocking of the southern highway on 10 December by sesame seed producers. In these situations, the Mission acceded to the authorities' request that it use its good offices to secure the peaceful resolution of such conflicts.

12. The parties fulfilled the commitments they had made in March 1996 to put an end to offensive military action and counter-insurgency operations, with the result that there were no deaths in combat. Nevertheless, URNG propaganda activities, including the holding of political rallies at which some participants were armed, were challenged by some sectors which criticized the Government for tolerating such actions. The end of the period saw the emergence of armed groups of ordinary criminals, masquerading as guerrillas, who committed robberies, armed assaults and acts of extortion on farms on the southern coast. This drew sharp criticism from private-sector organizations and prompted the Government to authorize the deployment of troops to reinforce civilian security forces in the area.

13. The public debate over human rights centred on the search for a delicate balance between the demands of peace, truth, justice and national reconciliation, with a view to influencing the forthcoming agreement on the legal integration of URNG. The agreement was eventually signed on 12 December and the Congress of the Republic subsequently ratified the National Reconciliation Act. This Act was criticized by a number of human rights

organizations, led by the Alliance against Impunity, which felt that it would, in practice, become a general amnesty for perpetrators of serious human rights violations. In this connection, the Mission underscored the importance of excluding from the extinction of liability those human rights violations which had occurred outside the strict framework of the internal armed conflict, and the major responsibility of the judicial authorities for complying with the spirit of the law by disallowing an extinction of criminal liability for those crimes which, under domestic law or the international treaties ratified by Guatemala, are imprescriptible or are not subject to such an extinction.

14. Noteworthy developments in the international human rights sphere included the fifth report of the Director of MINUGUA (A/50/1006, annex), dated 19 July 1996; decision 1996/106 on Guatemala adopted by the Subcommission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights, on 20 August; and the visit to Guatemala by the Independent Expert of the Commission in November. The Independent Expert observed the progress made with regard to civil and political rights, identified weaknesses in the justice system and public security and drew attention to the need to find lasting solutions to problems affecting economic and social rights.

15. COPREDEH, for its part, demonstrated a positive change in one of its roles by encouraging prompt, amicable settlements in some cases referred to IACHR by non-governmental organizations.

III. VERIFICATION BY THE MISSION OF PROGRESS IN COMPLYING WITH THE COMMITMENTS OF THE COMPREHENSIVE AGREEMENT ON HUMAN RIGHTS

Commitment I. General commitment to human rights

16. During the period under review, the number of complaints admitted and violations verified in respect of all rights declined by comparison with the previous period. Moreover, since the number of verified complaints of extrajudicial killings, murder attempts and, to a lesser extent, death threats decreased, the bulk of violations now concerns not the right to life, but the right to due process. This trend is the result of various positive factors, most of which are directly linked to the gradual cessation of the armed conflict (see para. 47).

17. An increase has also been observed in the levels of hierarchical and administrative control exercised by the Government over its agents, which will make it possible to strengthen the principle of authority. The main indicators of this increased control are the ongoing processes within the armed forces and the National Police to evaluate the participation of the respective forces in illegal activities. In both cases, these processes have resulted in the dismissal of a considerable number of personnel, including very senior officers, some of whom were also implicated in human rights violations. The positive impact of this process is more apparent in the armed forces, owing to their institutional characteristics and their participation in the internal armed conflict, the gradual cessation of which has also resulted in a decline in the number of violations ascribed to armed forces members. In the case of police

bodies, the lower rate of success may be attributable to the fact that their public security role has not been directly affected by the ending of the armed conflict.

18. There has also been an appreciable decrease in the number of complaints of torture admitted and confirmed, marking an improvement in this highly sensitive aspect of the right to integrity and security of person.

19. It is encouraging that, during the period under review, no cases of enforced disappearance were proved and the number of complaints admitted in connection with this serious human rights violation declined appreciably. This strengthens the perception that this reprehensible criminal practice is not occurring in Guatemala today.

20. The relatives of persons who disappeared or were executed in past decades have, albeit in a limited number of cases, been able to search for the bodies, through the exhumation of corpses, with the assistance of specialized personnel. In some of these situations, representatives of the Public Prosecutor's Office, the Office of the Counsel for Human Rights and the judiciary, and also deputy mayors, have provided assistance.

21. In the context of the prevention and punishment of acts of criminal violence, a large number of alleged members of kidnapping gangs have been arrested and prosecuted.

22. Another positive step was the adoption on 27 August by the Congress of the Republic of the Act for the Protection of Persons Involved in the Conduct of Judicial Proceedings and Persons Linked to the Administration of Criminal Justice.

23. With regard to the right of association in the labour sphere, the most important development was the implementation of the new Rules for the Recognition of Legal Personality and the Approval of Statutes and Registration of Trade Union Organizations (Government Agreement No. 143-96). These rules fulfil the obligations which Guatemala assumed in ratifying International Labour Organization (ILO) Convention No. 87 and implement the provisions of the Labour Code. Owing to the reduction of waiting periods and the elimination of administrative requirements, the application of these rules has expedited approval procedures for the registration of trade unions with the Ministry of Labour and Social Welfare.

Commitment II. Commitment to strengthening institutions for the protection of human rights

24. In this section, as in others, progress can be reported, and it is attributable not only to the signatories to the Comprehensive Agreement, but also to the State institutions which the parties undertook to strengthen.

25. The imminent signing of a peace agreement heightened expectations, during the period under review, about the conduct of the bodies involved in the administration of justice and in public security. The steady decline in the

number of complaints relating to the armed conflict has created a more favourable environment for the development of these institutions.

26. Within the Public Prosecutor's Office there was progress, under the leadership of the new Attorney General, towards a more rational administration of the human, material and technical resources available to the Office. This includes, in particular, the following:

(a) The new system of distribution of work by shifts, in force since November 1996, which encourages the direct involvement of prosecutors in the cases which they are investigating and helps eliminate the administrative formalities which used to delay investigations;

(b) The approval of career regulations for the Public Prosecutor's Office, which are still awaiting entry into force; this is an important step towards greater professionalism and autonomy of prosecutors;

(c) Instructions, issued by the Attorney General, in thematic areas related to criminal investigation, coordination with other bodies involved in the administration of justice and definition of the functions of special prosecutors or section prosecutors. These instructions could be the first step towards defining a criminal prosecution policy for the Office, and their implementation will lead to closer relations with the Ministry of the Interior and the judiciary.

27. In the National Police, new units were created, such as the information and anti-riot units, with the help of a programme of cooperation between the Ministry of the Interior and the Spanish Guardia Civil for the strengthening of the National Police.

28. With regard to the judiciary, the following are significant:

(a) Continuity in the selection process for trial judges, through the organization of training courses and evaluation of candidates at the Judicial Training School;

(b) Continuation of work on the preliminary bill on a career judicial service, the purpose of which is to improve the calibre of judicial officials and to regulate their career in an organic manner;

(c) The establishment of some trial courts in geographical areas which were not covered before.

29. The Public Defender's Office broadened its activities and extended its coverage, through the creation of new posts, so that there is now at least one public defender in each department of Guatemala.

30. Another positive factor has been the periodic meetings, from November 1996 onwards, of authorities of the Public Prosecutor's Office, the Ministry of the Interior and the judiciary. The purpose of these meetings is to establish and extend areas of coordination and understanding among the bodies involved in the

criminal prosecution process, in order to ensure more efficient investigation and punishment of crimes.

31. For its part, the Office of the Counsel for Human Rights has begun to set up the department for the investigation of individual violations of human rights, which the Mission feels is important for the fulfilment of its functions. Lastly, under its new chairmanship, COPREDEH has significantly improved its capacity to deal adequately with complaints of human rights violations and to ensure a prompt response from the authorities responsible.

Commitment III. Commitment against impunity

32. As already noted, the Government has promoted a process of internal evaluation within the armed forces, in the context of which some officials involved in illicit activities, including serious violations of human rights, were dismissed. This process, although partial and insufficient, demonstrates that there is a greater willingness in the armed forces command to adopt specific measures that can have a positive impact on the image projected by the armed forces.

33. As early as its first report, the Mission noted that one of the elements of impunity was the existence of illicit associations linked with various criminal activities and financial and other interests which might enjoy the support, complicity or tolerance of State agents. In that respect, one of the cases considered most indicative of the positive development of the Government's political will with regard to compliance with this commitment was the so-called "Moreno case", which resulted in the dismissal of a number of Government officials. On 14 September 1996, Alfredo Moreno Molina was arrested following a military operation carried out in Mixco, in the capital city. A large amount of information was seized which implicated senior army officers, prominent businessmen, political leaders and Government officials in smuggling. The Government referred to the operation as the beginning of the dismantling of a "parallel State". Some senior State officials were subsequently dismissed from their posts (see para. 8).

34. One particularly important aspect of the period under review was the growing participation and organization of sectors of civil society with regard to the problem of impunity, confirming it as one of the most important issues for Guatemalans today. At the national level, the Alliance against Impunity spearheaded a public awareness campaign involving numerous activities, including meetings with the parties, forums, proposals, public statements and seminars, the objective of which was to prevent the approval of a general amnesty or any other measure which, in practice, would amount to the same thing. Another example, at the local level, was the establishment of a commission against impunity in the municipality of Ixcán which, with the support of the justice of the peace of Cantabal, requested legalization from the municipality.

Commitment IV. Commitment that there are no illegal security forces and clandestine structures; commitment to continue with the purification and professionalization of the security forces; regulation of the bearing of arms

35. With regard to the process of demobilizing and disarming the Voluntary Civil Defence Committees (CVDCs), begun by the armed forces in July 1996 and concluded in December 1996, while the Mission did not verify the process because it had no mandate to do so, its field presence allowed it to conclude that this was the most significant development in terms of progress on the first aspect of this commitment.

36. With regard to the purification and professionalization of the security forces, between July and October 1996, according to figures provided by the National Police, 134 police officers were brought before the court for various illicit acts including homicide, illegal house searches, physical injury, extortion, threats to private individuals, drunk and disorderly conduct, illegal detentions, assault and robbery, participation in bribery, and breaches of internal police regulations.

37. In addition, development of the basic course for police officers continued, the main objective being to improve the training and skills of police personnel. There was also a tightening of requirements for the selection of students to participate in future courses, as part of the process of strengthening the functions of the National Police Academy.

38. Another positive aspect was the beginning of the process of reorganizing the Criminal Investigation Department. A rational system, based on shifts, has been established for distributing the workload of the technical and supervisory staff of the homicide section and the identification bureau. A system for unifying the registration number of cases was also implemented in order to expedite investigations and ensure more efficient monitoring and follow-up of cases.

39. In relation to the last aspect of this commitment, on 21 August 1996 the Congress approved Decree 63-96, which prohibits the bearing of firearms by persons under 25 years of age.

Commitment V. Commitment to guarantee freedom of association and freedom of movement

40. In relation to this commitment, the Office of the Counsel for Human Rights reported that, during the period under review, it did not participate in the procedure for the voluntary demobilization of CVDCs provided for in the Comprehensive Agreement, but also that complaints against CVDC members declined significantly.

41. The Mission also noted a decline in the number of complaints admitted and violations confirmed involving CVDC members. The Mission believes that in both cases the decline is related to the CVDC demobilization process.

Commitment VI. Commitment concerning military conscription

42. The Government continued its policy of suspending compulsory military conscription indefinitely and maintaining voluntary military service, pending the approval of a new law governing military service. Rounds of consultations are currently being held at the level of the Government and political parties on a new preliminary bill on the subject, with the aim of harmonizing the specifically military and social aspects to be included in the future law.

Commitment VII. Commitment to safeguard and protect individuals and entities working for the protection of human rights

43. The Mission observed that entities and non-governmental organizations working for the protection of human rights have begun to play a more visible role in society. The public activities of these kinds of organizations have become more frequent and, although there is still a feeling of fear, because of lack of institutional support and their own weaknesses, these bodies can be said to be growing stronger. The Mission feels that the disbanding of State structures such as the military commissioners and CVDCs is contributing to this process.

44. Another noteworthy aspect is the follow-up given by COPREDEH, during the period under review, to some cases of threats which occurred in previous periods and which were reported by non-governmental human rights organizations.

Commitment VIII. Commitment to compensate and/or assist the victims of human rights violations

45. In the course of the year, there were a number of legislative initiatives designed to provide comprehensive assistance to victims of human rights violations and their relatives. Currently, a compensation bill is under discussion in the Congressional Human Rights Commission, with the participation of academic organizations and organizations of relatives of victims. In addition, the Mission stresses the commitment made by the parties in the Agreement on the Integration of URNG, which was then reiterated in the National Reconciliation Act.

46. A particularly significant case occurred in Colotenango, in which the Government, through COPREDEH, reached an amicable settlement with the family of a member of the Committee for Peasant Unity who had been killed by members of the Civilian Self-Defence Patrols. The Government agreed to take compensation and restitution measures within the context of a complaint to the Inter-American Commission on Human Rights.

Commitment IX. Commitment concerning human rights and the internal armed conflict

47. The cessation of the internal armed conflict had a positive impact both on the incidence of violations occurring in that context and on the overall human rights situation. Of note, in the period under review, were the dismantling of some military posts, the deactivation of counter-insurgency support structures and the abandonment by URNG of the practice of levying a "war tax" and,

recently, of placing restrictions on the freedom of transit and movement of the civilian population, known as "tapadas".

Assistance to vulnerable groups

48. In the legislative area, significant developments include the adoption of the Code on Children and Youth and the Act on the Prevention, Punishment and Eradication of Domestic Violence, which will contribute to recognition of the dignity and rights of women and minors, particularly those who directly suffered the consequences of the internal armed conflict.

49. In 1996, over 4,000 refugees returned to Guatemala, mainly from Mexico. In all, the process of voluntary repatriation to Guatemala, assisted by the Office of the United Nations High Commissioner for Refugees (UNHCR), has involved over 34,000 people. The programme for formalizing the immigration status of Guatemalan refugees, which was adopted by Mexico in August 1996 and which grants formal immigrant status to Guatemalan refugees who decide to settle in that country, will have a significant impact on the decision whether or not to return the 32,500 refugees still in Mexico.

50. During the period under review, progress was made in the reincorporation into national life of the Comunidades de Población en Resistencia (communities of populations in resistance) in Ixcán de la Sierra and Petén. The National Peace Fund and the communities signed agreements covering resettlement, access to land and support for socio-economic development programmes. The official recognition of these populations by the municipal authorities in Santa Cruz del Quiché and Petén also constitutes significant progress.

Agreement on Identity and Rights of Indigenous Peoples

51. The Mission is gratified that the Government has set in motion an extensive campaign for publicizing the content of this Agreement, which provides for coordination arrangements with MINUGUA and with the Maya sectors of civil society.

52. Another noteworthy development is the greater interest shown by the judiciary in the training campaigns for court translators, such as the "Administration of Justice and Linguistic Pluralism" project in Quetzaltenango, for which it has made budgetary commitments.

53. Lastly, the Maya sector of the Assembly of Civil Society, with the participation of Maya, Xinca and Garifuna organizations, established eight working committees to prepare for the commissions and reforms envisaged in the Agreement. These committees cover the subjects of land, participation, educational reform, indigenous spirituality, official recognition of indigenous languages, customary law, the rights of women, and constitutional reforms.

Most recent agreements signed by the parties

54. The Mission is gratified that the parties, in their most recent agreements, took up earlier recommendations of the Mission and also reiterated and confirmed some commitments laid down in the Comprehensive Agreement. Significant aspects include the rights of indigenous peoples, access to justice, the right to defence counsel, the adoption of a new law on military service, compensation for victims of human rights violations, the provision of increased resources to entities working for the protection of human rights, and the rational, prompt resolution of social conflicts.

IV. SITUATIONS WHICH VIOLATE HUMAN RIGHTS AND LIMITATIONS ON COMPLIANCE WITH THE COMMITMENTS VERIFIED BY THE MISSION

55. Human rights violations are the responsibility of the State as a whole, since the official or the public institution to which blame is attributed is not legally relevant. In analysing situations which violate human rights and limitations on compliance with the commitments of the Comprehensive Agreement, however, a distinction must be made between the actions and responsibility of the executive branch and those of other State bodies and institutions, especially those involved in the administration of justice.

56. The persistence of a high level of criminal violence is the main impediment to the enjoyment of human rights in Guatemala, especially the rights to life, liberty and security, as demonstrated by a number of crimes which occurred during the first and second halves of 1996.

57. The momentum and political will observed in certain police actions have not been matched by substantial improvements in the overall response to the problem of lack of public safety. The efforts made by the homicide section and the anti-kidnapping squad, for instance, although significant, have not been sufficient to bring about decisive changes in the short or medium term, partly because of those units' lack of infrastructure.

58. The recurrence of cases of lynching of alleged criminals confirms the concern expressed by the Mission in its previous report (A/50/1006, annex, para. 23). In a number of cases in which it could be predicted that lynchings would occur because of the population's exasperation at the crime situation, no specific instructions were issued for preventing them and, when they did occur, there was no rapid reaction from the authorities.

59. In strict compliance with its mandate, the Mission verified and expressed its views on a case in which the death penalty was applied to two persons without need for the precautionary measures requested by the Inter-American Commission on Human Rights and, therefore, in violation of article 18 of the Constitution of Guatemala, which prohibits the imposition of the death penalty while legal remedies are pending. The Mission is similarly concerned about ongoing court cases in which the imposition of capital punishment is being considered on the basis of changes in the law extending this penalty to new crimes; such changes were made subsequent to and in violation of the American Convention on Human Rights to which Guatemala is a party. These executions, if

carried out, would represent a breach by the courts of article 46 of the Constitution, through the application of lower ranking legal norms instead of the norms of the American Convention, which take precedence.

60. With regard to the right to personal liberty, during the period under review there was an increase in the number of verified cases of illegal detention attributed to the National Police and the Treasury Police.

61. The already high incidence of kidnapping increased during the period under review. In order to deal with this serious situation, Government Agreement 90-96 of March 1996 provided for cooperation between the armed forces and the National Police. Recently, at the request of the President of the Republic, this cooperation was expanded to include logistical support from the armed forces Intelligence Department to the National Police anti-kidnapping squad. These measures have failed to reverse the trend, however, and the detention of dozens of alleged members of these kidnapping gangs has not led investigators to the ringleaders and their main accessories.

62. The President of the Republic, in public statements made last August, declared that not only military personnel but also politicians and other civilians were involved in the "kidnapping industry". That claim echoed the statements in earlier MINUGUA reports that State agents, acting in collusion with former agents of the State and civilians, are operating extensive organized crime rings.

63. One of the cases which most inflamed political passions and even affected the negotiating process was the kidnapping on 25 August of 86-year-old Olga Alvarado de Novella. On 20 October, one of the kidnappers, a member of one of the URNG organizations and known as "Commander Isaías", was allegedly arrested by members of the armed forces Intelligence Department. Subsequently, on 25 October, "Isaías" was exchanged for the kidnap victim, with the authorization of the President of the Republic who justified the action on humanitarian grounds. Responsibility for the kidnapping, which was verified by the Mission, was confirmed by the public acknowledgement by URNG that the kidnapper was a member of its organization. The kidnapping was condemned by both parties and also by the Secretary-General of the United Nations, who appealed to URNG to take the necessary steps to resume negotiations. The Mission made an urgent recommendation to the URNG General Command, a recommendation which it now reiterates, that it take all necessary steps to investigate the incident fully and to cooperate in good faith with President Arzú's Government as it exercises its legitimate authority to prosecute and punish all those responsible.

64. During the period under review, other complaints were received, especially from farm-owners' associations, accusing URNG of kidnappings. Upon verification, the Mission found that the kidnappers were ordinary criminals who had used fake URNG seals and letterheads to commit their crimes.

65. The Mission also received several complaints of alleged kidnappings of persons connected with human rights organizations. In the three cases which it verified, it concluded that there was no evidence to suggest that agents of the State were involved. However, had there been more thorough investigations or

speedier judicial action in these cases, the allegation of political motives implicit in the complaints would have been rapidly clarified.

66. The legal restrictions imposed during the period on the granting of alternative measures could worsen the pre-trial detention situation (para. 67). The information obtained by the Mission is that only 25.8 per cent of the prison population are serving a sentence imposed by final decision of a court; the remaining 74.2 per cent are unconvicted prisoners who have been deprived of their liberty but whose guilt or innocence remains to be established.

67. Decree 32-96, which entered into force during the period under review, contains amendments to the Code of Criminal Procedure that affect the guarantees recognized by the Constitution and by international human rights treaties. The Decree prohibits the granting of alternative measures in the case of certain crimes, without regard for the principles of presumption of innocence and recourse to pre-trial detention only as an exceptional measure. Under the Decree, persons accused of crimes such as aggravated robbery or sabotage are ineligible for release from prison. While those accused of serious crimes such as torture or enforced disappearance are eligible. Moreover, justices of the peace are authorized to take an accused's initial statement within 24 hours, but are not allowed, on this basis, to take a decision on the legality of the person's detention or the granting of alternative measures, or to order the accused's release.

68. With regard to the right to due process, during the period there was an increase in violations of the right to be tried within a reasonable time, the right to legal assistance and the right not to be compelled to testify against oneself.

69. The Mission reiterates its concern, already expressed publicly, at the long delays and even backward steps in the judicial proceedings for cases of serious human rights violations which have caused a public outcry, such as the Xamán case (A/50/878, annex, para. 41) and the murder of Myrna Mack (ibid., para. 43 (d)), a situation that increases uncertainty about the real prospects for clarifying and punishing these crimes.

70. It has been found that the purpose of the remedy of <u>amparo</u> is being distorted in practice by some individuals involved in the conduct of judicial proceedings, who use such remedies to delay the proceedings. The judicial process has also, in some serious cases, been affected by the attitude of certain judges who have allowed various remedies whose intention was clearly to delay the proceedings, when circumstances would have permitted them to declare such remedies inadmissible.

71. Most of the violations of freedom of movement verified by the Mission concern restrictions placed by URNG on the freedom of transit and movement of the civilian population, known as <u>tapadas</u>, which are designed to ensure the population's presence at propaganda actions and the like.

72. The Mission verifies complaints and reports submitted by journalists and their professional associations concerning pressures from government officials and persons associated with the Government aimed at censoring the media.

73. As regards conditions for the exercise of the right to freedom of association in the labour sphere, while the application of the new rules makes it easier for the trade unions which manage to organize to obtain recognition of their legal personality (see para. 23), it does not solve the problem in workplaces where the right to form a trade union is denied and workers who attempt to organize are dismissed. Furthermore, in several reported cases, the State has failed in its duty to ensure the restoration of this right where it has been violated by employers. In its latest comments on the reports submitted by Guatemala (E/C.12/1/Add.3), the United Nations Committee on Economic, Social and Cultural Rights expressed concern at, inter alia, the flagrant disregard for labour laws and the lack of respect for the rules governing unionization, and accordingly recommended that urgent consideration be given to the effective implementation of trade union rights and labour legislation.

74. In the context of increased efforts to prosecute crime, the institutional weakness of the National Police became more apparent and prompted the intervention of the armed forces in public security tasks.

75. The budget of the Office of the Counsel for Human Rights for 1997 was approved by Congress in an amount equivalent to that allocated for 1996. This development is at variance with the commitment to help strengthen the Office institutionally and is a serious obstacle to the improvement and expansion of its important function at a time when it will have to play a pre-eminent role. The investigation of complaints of human rights violations continues to be limited both by institutional deficiencies and lack of resources and by a lack of support and response from the authorities. During the period under review, death threats against the Counsel were also reported.

76. The escapes of prisoners which occurred in this and earlier periods were due to the inefficient system of prevention and to the shortage of guards. Most escapes take place while prisoners are being taken to judicial proceedings: they are taken in public buses or even by requesting lifts from private vehicles. This does not offer the minimum conditions of security necessary for detainees or their guards and endangers the population.

77. During the period under review, responsibility for the persistence of impunity in the country was ascribed repeatedly and publicly to the professional conduct of judges and magistrates. The Mission's verification confirms this perception. The initiative launched by the new President of the Supreme Court and of the judiciary in October announced changes in the institution that are about to go into effect.

78. The effective prosecution of armed gangs has been undermined by the fact that judges take too long to issue search and arrest warrants and that such warrants are announced publicly in advance. There have also been cases where judges delayed unjustifiably in ordering the preliminary investigation and failed to take steps to protect the evidence. Such shortcomings point to the need for greater coordination between the judiciary, the Public Prosecutor's Office and the National Police.

79. The Mission notes with concern that some former CVDC members implicated in human rights violations are still at large, despite the fact that the armed

forces, before demobilizing the CVDCs, announced that in some cases the persons concerned had been dismissed from the CVDCs and that the armed forces would help to arrest them if the National Police so requested.

80. Without prejudice to the positive assessment made above of the disbanding and disarming of the CVDCs, the credibility and effectiveness of this process have been undermined by the actions of some elements of the armed forces at the departmental level in encouraging CVDC members to join other organizations, including armed organizations, following their demobilization.

81. The Mission has found cases where members of the armed forces, in violation of instructions from the armed forces high command, visited and put pressure on CVDC members in a number of communities to stop them disarming and disbanding voluntarily and complying with the process put in place by the armed forces command.

82. The transfer of cases involving military personnel accused of ordinary crimes from military courts to ordinary courts (Decree 41-96) has not helped to advance the trials in question. This is due not only to the excessive workload of the ordinary courts but also to the fact that these courts continue to be subject to direct or indirect pressure from members of the institutions to which the accused belong. Moreover, impunity in some cases of serious crimes involving military personnel has been fostered by invoking the need to find the right moment before deciding to transfer a case to the ordinary courts, with the consent of the Public Prosecutor's Office.

83. Verification during the period under review shows that the armed forces' cooperation with the judiciary in the investigation of cases involving members of those forces remains inadequate and that the possibility cannot be ruled out that the institution is protecting its members in order to prevent their punishment. In the Xamán case, the Minister of Defence replied to COPREDEH on 12 November 1996 that the official version of events was the one given to the press by his predecessor on 5 October 1995.

84. In view of the scale of the proliferation of illegal weapons in the hands of private individuals, the number of which ranges, according to various sources, from 250,000 to 500,000, the 78 per cent increase in the number of weapons confiscated by the police, from 1,227 during the period January-October 1995 to 2,190 during the same period this year, has had no significant impact on crime levels and on control of the possession or bearing of arms.

85. The Mission has learnt with concern that, following the demobilization and disarmament of many CVDCs, some members kept the weapons they owned, even without a licence from the Arms and Munitions Control Department. This development, rather than helping in the fight against crime which was the pretext given, increases the potential danger of abuse of power or criminal acts, in addition to assisting the transformation of former CVDC members into members of illegal armed groups.

86. In their official statements, the Government and senior military authorities no longer claim that institutions working for the protection and promotion of human rights are engaging in subversive activities. Nevertheless,

some army officers, former military commissioners and CVDC members, especially in the country's interior, have sent equivocal or ambiguous messages in that regard.

87. During the period under review, the Mission received complaints of threats against individuals and organizations associated with the defence and promotion of human rights, the verification of which has yet to produce enough evidence to determine the origin or source of the threats. Since 1995, the Mission has received complaints of threats of various kinds against human rights organizations. Although the Public Prosecutor's Office and the judiciary have opened files on these cases, the failure to investigate them promptly and thoroughly has led to a feeling of vulnerability on the part of the groups concerned and to speculation about who might be responsible.

88. During the period under review, armed groups emerged, calling themselves the Ejército Popular Revolucionario Guatemalteco and the Frente Bámaca, which demanded under threat the payment of a "war tax". Attacks were also carried out by armed groups claiming to belong to URNG. Verification by the Mission revealed that ordinary criminals, not URNG, were responsible.

89. Tensions and internal difficulties have arisen within returnee communities owing to, inter alia, their isolation and the absence of public services and conflict resolution mechanisms. In addition, neighbouring communities have often felt discriminated against because they lack the economic and social support which they believe returnee communities receive.

90. The absence of institutional mechanisms for dealing with land disputes, which often involve the indigenous population, and for implementing expeditious procedures for resolving them, as well as the Government's inability to provide legal remedies and legal advisory services to apply them, have contributed to the occurrence and the aggravation of such disputes. The Mission observed with concern that there were repeated clashes during the period under review between a number of indigenous communities and villages and between members of these communities and farm-owners, resulting in an unknown number of deaths and serious injuries and keeping tensions high in the areas in question.

91. During the period, the most serious violations of the rights recognized in the Agreement on Indigenous Rights were associated with the exercise of Mayan spirituality. Accusations of witchcraft greeted the performance of traditional Mayan rites and triggered violent reactions against the physical and psychological integrity of the victims, as well as serious acts such as kidnapping, death threats and even murder. There have also been collective trials and clashes between villages.

92. Lastly, the Mission observed various ways in which access by priests and adherents of Mayan spirituality to their holy places was being obstructed by individuals and religious institutions, and even cases of destruction and vandalism. The Mission has received complaints from spiritual guides about the procedure for the issuance of credentials to Mayan priests, which they consider humiliating.

V. EVALUATION OF THE MISSION'S CONTRIBUTION TO INSTITUTION-BUILDING

93. As part of its mandate, the Mission has been implementing since early 1995 a programme in support of national institutions aimed at the strengthening of governmental and non-governmental institutions for the protection of human rights. This work forms part of a strategy being coordinated with the United Nations system, particularly within the framework of the MINUGUA/UNDP Joint Unit, and has been made possible by the support and generous contribution of international cooperation. Specifically, Denmark, the Netherlands, Norway, Sweden and the United States of America contributed to the Trust Fund for the Guatemalan Peace Process and Belgium and Canada financed specific projects during the period, which were in addition to other efforts mentioned earlier.

94. The overall objective of the programme is to cooperate in efforts to build in Guatemala a democratic, multicultural State that is subject to the rule of law. These efforts include a series of institutional reforms designed to bring about quantitative and qualitative changes in the State apparatus and in the performance of State officials. Through agreements with the various institutions, the Mission's activities are concentrated in four principal areas of work: administration of justice; cultural pluralism and access to justice; public security; and a culture of respect for human rights.

95. Disparities have been noted in the capacity of national institutions to absorb international cooperation and to use the technical assistance provided. This means that the substantial effort made by one institution may be counteracted by deficiencies in the functioning of another. This problem suggests that, at a time of far-reaching institutional change, there is a need to create opportunities for dialogue and inter-institutional cooperation which are genuinely able to overcome the compartmentalization of State responsibilities.

96. Technical cooperation aimed at bringing about changes in the organization of institutions has had to contend with extremely slow absorption rates due, in large measure, to active or passive resistance on the part of national players. Such resistance continues even when a political decision has been taken to effect those changes. This difficulty points to the need to see change, beyond its technical content, as a cultural transformation.

System for the administration of justice

97. The aim of the work being done in this area is to build up the technical, organizational and administrative capacity of institutions associated with the administration of justice to operate efficiently from a standpoint of respect for human rights. To that end, within the framework of the MINUGUA/UNDP Joint Unit, the Mission has concluded cooperation agreements and is developing projects with the judiciary, the Public Prosecutor's Office, the Public Defender's Office, the Office of the Counsel for Human Rights, the Congress of the Republic and the Ministry of Labour and Social Welfare.

98. The first objective in this area was to contribute to the consolidation of the reform initiated with the adoption and entry into force of the current Code

of Criminal Procedure. Partly as a result of the cooperation projects, the operation of the court system can be said to have achieved a measure of regularity which gives no cause to fear a return to the pre-reform situation. However, the tightening of pre-trial detention and other recent changes in the law show that an inquisitorial culture persists which could jeopardize the reform of criminal procedure.

99. With the support of technical cooperation projects, it has been possible to arrive at a clearer definition of criminal prosecution policy; specifically, there is now a greater interest in the investigation and trial of the most serious crimes, although this has yet to be seen at all operational levels. An improvement has also been noted in the performance of some prosecutors and public defenders. Lastly, progress has been made in the system for the selection of judges and prosecutors, in the first case through the introduction of a competitive examination for the appointment of trial judges and, in the second, through the approval of career regulations for the Public Prosecutor's Office.

100. Within the framework of the technical cooperation project with the Public Prosecutor's Office, the Council of that Office adopted career regulations for the Office; the Prosecutor's Manual was completed and is ready for distribution; and the cycle of courses on criminal investigation for auxiliary and newly recruited prosecution staff was concluded. The new Attorney General, in his capacity as head of the Public Prosecutor's Office, issued general instructions for improving criminal investigation and also relations with other bodies involved in the administration of justice.

101. As a result of the reorganization of the system for the assignment of cases, set in motion by the Metropolitan District Attorney's Office in November, prosecutors now work 72-hour shifts. This change is important for improving the quality of investigations, since the prosecutor on duty is immediately notified of any allegedly criminal act and can take the necessary investigative measures on the spot. One drawback of this reform is that it has not been accompanied by a change in the apportionment of jurisdiction among the courts of first instance of the capital city.

102. During the period under review, there was an increase in the number of public defenders in the Public Defender's Office, the State entity responsible for ensuring the exercise of the right of every citizen to defence counsel. As a result, public defenders are more closely involved in the cases assigned to them and visit defendants in prison. Although demand for the Office's services still far exceeds its capacity to respond, the work of the public defenders has started to produce a body of favourable case law in judicial remedies designed to protect the rights of the accused.

103. A draft organic law for the Public Defender's Office has been submitted to the Supreme Court of Justice which:

(a) Grants autonomy and independence to the Office by separating it from the judiciary and providing it with an adequate budget;

(b) Establishes the rights and duties of public defenders, a system of selection and appointment, and a disciplinary regime;

(c) Provides for an efficient administrative structure, which will include defence support units made up of translators of indigenous languages, instructors, experts and administrative support staff to ensure the effective exercise by indigenous defendants of their right to defence counsel;

(d) Establishes a decentralized structure which will ensure that the entire population has access to the services of public defenders.

104. Under the project for the strengthening of the Judicial Training School, identification of the training needs of judges and magistrates has been completed. A sample of 500 sentences passed in all branches of the judiciary and the various courts revealed a deficient knowledge and grasp of basic legal concepts and difficulties in reasoning and substantiating judicial decisions. At the same time, two new courses for the selection of trial judges have been completed; enrolment was higher than for the first such course. After three selection courses in which the most qualified participants were appointed to office by the Supreme Court, the Court's determination to select judges on the basis of objective technical criteria, without regard for extraneous factors, is laudable.

105. In the Office of the Counsel for Human Rights, which the Mission feels should be strengthened as a matter of priority, cooperation with the section responsible for investigating human rights violations continued. An investigator's job description and a syllabus for scholarship-holders who are candidates for the post were developed. A handbook on indigenous peoples' rights was prepared and is now under discussion, and other handbooks are being prepared on violations of due process and of political rights.

106. As part of the Programme of Institutional Assistance for Legal Reform (PROLEY), assistance to the Congress of the Republic has continued through the allocation of technical resources to the process of legislative drafting and debate. During the period under review, support was provided for the preparation of the draft Penal Code and the bill on a career in judicial service. The bill generated an important and salutary debate which permitted an in-depth look at the issue of the independence of the judiciary. The Programme also provided support for the process of approving the Domestic Violence Act.

107. The review of the prison situation was completed and submitted to the authorities. It detailed serious violations of the human rights of convicted prisoners and those in pre-trial detention and contained a set of recommendations for improving prison conditions which could serve as a basis for the adoption of measures in this regard, although this does not obviate the need to draft and adopt a prison act.

108. Cooperation with the Ministry of Labour in establishing an Office for the Prevention and Settlement of Labour Disputes has begun. Regulations on the organization and functioning of this Office are being drafted and, in cooperation with the Programme for Peace of the Organization of American States,

arrangements are being made for the launching of training activities for negotiators.

109. In 1997, the MINUGUA/UNDP Joint Unit plans to continue to assist institutions in achieving the following objectives:

(a) Pursuing legal reforms;

(b) Implementing the administrative and organizational reforms needed to enable them to perform their functions efficiently;

(c) Promoting the establishment of objective systems for the selection of judges, magistrates, prosecutors and public defenders;

(d) Institutionalizing continuing training.

Cultural pluralism and access to justice

110. The Mission is assisting State and private institutions in taking action to fulfil the commitments of the Comprehensive Agreement and the Agreement on Indigenous Rights. Work has been done on projects to facilitate access by the indigenous population to the system of justice and assistance is being given to research on the present content of traditional indigenous law.

111. The Mission has cooperated with judicial institutions in their efforts to place on their respective agendas the issue of the extension of judicial services to remote areas, which will require the allocation of budgetary resources to set up courts, prosecutor's offices and public defender's offices. At the same time, efforts have been made to promote a process of meetings and consultations between indigenous organizations and members of the justice system. Various activities have been used to promote awareness of the legitimacy of the right to use one's own language.

112. This issue was approached through the implementation, with the Mission's support, of projects in the country's interior aimed at solving local problems and identifying pilot solutions that can be replicated. The interest and commitment of local communities, and particularly of indigenous organizations, have helped to promote this effort and provided the necessary basis for consultations in this area.

113. The first phase of the Administration of Justice and Linguistic Pluralism project was completed. It identified legal and administrative constraints on the use of indigenous languages, trained 90 mam and quetchi translators and prepared a glossary of legal terms in both languages which is in the process of being approved.

114. The judiciary and the Public Prosecutor's Office have made a commitment to appoint translators in the departments of Quetzaltenango, San Marco and Totonicapán, where the Project is being implemented. In 1997, there are plans to expand coverage to the entire mam- and quetchi speaking area and to initiate, with communities, research into their customary law.

115. The experience of the popular law office in Santa Cruz del Quiché (A/50/1006, para. 143 (a)) as a model for the provision of legal aid services indicates that the population's demand for such services is very great, and that it will increase still further as the system of justice gains credibility in the public's eyes. When the project ends in January 1997, its activities will be taken over by the municipal council, which has shown a keen interest in continuing it.

116. In order to provide remote areas with judicial services, work has begun on the project for the establishment of a centre for the administration of justice in Nebaj, which involves the establishment of a court of first instance, a prosecutor's office, a public defender's office and police substations in the main towns of municipalities. After a long process of gestation, which served to achieve a local consensus on the need for an efficient justice system, an inter-agency committee was set up comprising the governmental and non-governmental agencies involved in this field and its future activities have been planned.

117. The Mission has continued to provide support for research into customary law being done by the Universidad Rafael Landívar to learn about existing institutions and identify the authorities responsible for conflict resolution. This work will be expanded in 1997 in order to gather more technical information for submission to the joint commissions to be set up under the Agreement on Indigenous Rights.

118. The project for cooperation in the institution-building of non-governmental organizations was launched in October. Organizations were invited to submit training and advisory projects which will help to enhance their technical expertise and their ability to draft proposals. The Mission is giving priority to projects in three areas:

(a) Involvement and participation of non-governmental organizations in the building of peace;

(b) Technical and legal advice on improving access to justice;

(c) Training in conflict resolution and reconciliation.

119. The Mission also continued to work with various organizations in the area of human rights education (see para. 127).

Public security

120. The Mission has concentrated its technical assistance in this area on two priorities: strengthening the National Police Academy and improving the capacity and organization of the homicide section of the Criminal Investigation Department.

121. The board of the Academy welcomed the technical assistance, which enabled it to undertake various activities, including preparation of the syllabus for the basic course and the drafting of new regulations for the internal functioning of the Academy and for the selection of police officers for the

course. Of the various proposals put forward thus far, only the syllabus has been approved.

122. As far as the strengthening of criminal investigation is concerned, progress by the Criminal Investigation Department was hampered by two factors which delayed plans for highly specialized international cooperation: the lack of international staff trained in criminology, whose assistance was requested at the beginning of the year but materialized only in October, and the failure of the appropriate authorities to provide the necessary work tools.

123. The experience of technical assistance work in this area points to two important factors: the seriousness of the crisis in the National Police, which makes it difficult to provide advisory services, and the lack of clear guidelines for the transition to the new system outlined in the Agreement on the Strengthening of Civilian Power.

Culture of respect for human rights

124. The growing demand for the Mission's decentralized educational activities, which mainly comprises briefings and training seminars, suggests that human rights issues, and institutions and individuals working for the protection and defence of human rights, are gaining legitimacy in Guatemala. Such activities have helped to broaden opportunities for a dialogue on human rights and to expand efforts to publicize human rights activities through the training of human rights outreach workers associated with non-governmental organizations.

125. During the period under review, roughly 70 per cent of the Mission's educational activities were carried out in cooperation with national bodies - mainly State institutions and non-governmental organizations. The main Government counterpart was the Office of the Counsel for Human Rights, acting through its branches. The Mission also cooperated in the holding of classes in human rights, which have been incorporated into the regular curricula of various institutions, including the academies of the security forces and the armed forces.

126. The Mission jointly organized with the Inter-American Institute of Human Rights, the Guatemalan Ministry of Foreign Affairs, the Office of the Counsel for Human Rights and the Archdiocesan Human Rights Office, the course on human rights for Mexico and Central America which took place in Guatemala City in November.

127. The Mission worked closely with a number of non-governmental organizations in establishing a coordination mechanism among entities specializing in grass-roots human rights education. Such coordination should lead to the formulation of a national human rights education plan that will permit a more comprehensive approach in terms of the territory, population and issues covered.

VI. ISSUES OUTSTANDING FOR THE FULL EXERCISE OF HUMAN RIGHTS IN GUATEMALA

128. After two years in the country, the Mission is completing a cycle of verification work and support for institution-building. The experience gained and the challenges faced are broadly reflected in the Peace Agreements. The evolution of the verification process and the successful completion of the negotiating process show that Guatemala is in a transitional phase that affords an unprecedented opportunity for change, characterized by the gradual disappearance of the counter-insurgency State and the creation of conditions for the further consolidation of the rule of law, public participation and peaceful coexistence.

129. One fact worth noting in connection with the present human rights situation in Guatemala is the decrease in the number of complaints admitted for verification concerning violations of the human rights given priority in the Comprehensive Agreement. In 1995, the Mission admitted 1,665 complaints concerning 13,181 violations affecting the rights of 10,409 persons. In 1996, 891 complaints concerning 7,290 violations and 4,594 victims were admitted. This is not because there was a decline in the number of complaints submitted to MINUGUA, since the number of complaints varied very little between 1995 and 1996. Rather, the Mission had to reject nearly 90 per cent of the complaints submitted to it because most of them related to commitments contained in agreements which had yet to enter into force. This shows the level of public expectations of the peace process.

130. In 1995, nearly 45 per cent of violations were attributed to the main institutional protagonists of the armed conflict: the armed forces, including military commissioners and Voluntary Civil Defence Committees, and URNG. This figure declined steadily in 1996 to around 34 per cent. As a result, violations attributed to the National Police, the Public Prosecutor's Office and the judiciary have become more prominent. These three institutions, which in 1995 accounted for 31.5 per cent of the violations reported, accounted for 43.5 per cent in 1996.

131. The data show a shift away from the attribution of responsibility for violations committed in the context of the armed conflict by institutions under the direct control of the parties to State institutions over which the Government has no direct control, except in the case of the National Police, but which it does have a duty to cooperate with and strengthen.

132. Moreover, mention should be made of two key issues which have a decisive influence on the human rights situation in Guatemala: the values, attitudes and social behaviours that go to create the overall context in human rights violations take place and are encouraged and tolerant; and the main characteristics of the functioning of the State institutions responsible for protecting human rights.

133. In the course of its verification work supporting institution-building, the Mission has noted the convergence of various values, attitudes and expressions of violence in Guatemalan society which permeate broad areas of national life and have, over time, created a culture of violence and intimidation. The reform

of State institutions must be matched by a transformation of this culture of violence.

134. Ethnic discrimination and social and economic marginalization spawn various kinds of social conflicts which, instead of being resolved peacefully, have in the past been met with force, thereby jeopardizing the enjoyment of basic human rights and fuelling the recurrence of such conflicts.

135. During the period of internal armed conflict, the armed forces unduly expanded their influence over society, without being subject to any controls on the part of civilian authority, a situation which encouraged authoritarianism. As part of counter-insurgency strategy, the armed forces used military commissioners and CVDCs to impose their control on rural communities, a control which was based on intimidation and other forms of violence.

136. In addition, the State and society have basically responded to the high crime rate with other forms of violence. State institutions have favoured repressive measures, while society has taken justice into its own hands by lynching alleged criminals and organizing armed groups and has encouraged the boom in private security companies over which there is no effective State control.

137. One of the main factors in the current violence is the proliferation of firearms in the possession of private individuals, encouraged by the lack of State control and a misinterpretation of the constitutional right to bear arms.

138. Another issue which has a major influence on the situation of human rights is the functioning of the State institutions responsible for the prevention, investigation, trial and punishment of violations and crimes. As a result of the low level of compliance with this duty of the State, the population has an ingrained distrust of the institutions concerned. The following paragraphs describe the nature of the functioning of the judiciary, the Public Prosecutor's Office and the National Police, the institutions with which the Mission has worked most closely in accordance with its mandate.

139. Even though there have been some improvements in the functioning of the institutions mentioned, their common deficiencies persist: lack of resources and staff; low wages and the inadequate technical background of personnel; absence of a consolidated, general and mandatory procedure for the selection, appointment and promotion of officials according to objective criteria; limited institutional presence in vast areas of the country; inefficient organization of work, inappropriate distribution of tasks, and red tape, which result in unnecessary procedures, frequent failure to observe legal deadlines, and delegations of responsibility which are not permitted under the law; and absence of objective and effective mechanisms for the evaluation and supervision of officials.

140. Within the judiciary, attitudes and practices prevail which, because of gaps in legal training, are reflected in the way in which cases are handled in court. Such attitudes and practices give rise to traits which the partial legal reforms effected to date have not managed to root out, including an excessive formalism that favours ritual observance and is on occasion accompanied by

requirements that have no basis in law; a system of interpreting and applying the law that basically heeds the letter, rather than to the spirit; and tolerance for the use of procedural remedies purely as a delaying tactic. Judges have also been seen to delegate the handling of cases and the conduct of investigations repeatedly to auxiliary staff, beyond what is permitted by law. A system of supervision of the work of judges and magistrates persists that distorts its original purpose and interferes with the independent exercise of their duties.

141. Despite the progress made, the Public Prosecutor's Office has failed to perform in a manner commensurate with the important role assigned to it by law in the prosecution of crime, especially in the preparatory phase of proceedings, because its performance in directing investigations and its exercise of the legal powers giving it functional authority over the security forces are still unsatisfactory. It has also been observed that, in many cases, prosecutors are inhibited in exercising their duty to recommend criminal proceedings and prosecution, a tendency which is magnified in cases over which there is conflict; there is a degree of tolerance in situations where judges infringe on the jurisdiction of the Public Prosecutor's Office by resorting to practices allowed under the old Code of Criminal Procedure. The system of supervision of the activities of prosecutors and auxiliary personnel by district attorneys, their immediate superiors, is inadequate to remedy the situation.

142. In the police force, basic deficiencies remain which hinder its ability to prevent and investigate crimes. Police activities continue to concentrate more on the suppression of illegal conduct of marginal interest than on the serious crime problems affecting Guatemalan society. This is demonstrated by the fact that a large percentage of arrests are for minor offences, mostly drunkenness, disorderly conduct or fighting. Furthermore, a large percentage of judicial arrest warrants are not enforced, and only 1 in every 10 arrests by the National Police is made pursuant to such warrants. Similarly, the internal oversight mechanisms available to the National Police continue to be inefficient and the failure to investigate and punish many crimes weakens the beneficial public effect of the purification efforts made by the authorities.

143. This deficient functioning of State institutions is compounded by an ingrained preference for a punitive response over prevention and rehabilitation. This mentality can be seen in the sentencing system and its endorsement, the main force of which basically falls on the perpetrators of less serious offences. The extension of the death penalty to new categories of crimes since the entry into force of the American Convention on Human Rights and the approval of a law increasing prison sentences to a maximum of 50 years are examples of this situation. As for the execution of sentences, the absence of prison legislation is compounded by poor prison infrastructure and by numerous instances of arbitrary treatment of prisoners because the current system is not designed for the rehabilitation and social reintegration of offenders. Lastly, this punitive response particularly targets those who have no influence with State officials or do not have the means to secure a proper defence.

144. We have mentioned some aspects of society which have given rise to the culture of violence and intimidation, as well as the deficiencies apparent in

the functioning of State institutions. These coincide with or are complemented by other equally important aspects covered in the Peace Agreements as a whole.

145. The State should make eradication of the widespread, repeated recourse to violence to settle the differences that exist in society a primary objective, to be attained by implementing a policy based on public participation. Dialogue and participation, within the framework of mechanisms for the peaceful resolution of social conflicts, are essential for achieving lasting, non-violent solutions.

146. In order for the disbanding and disarming of military commissioners and CVDCs to lead to a fundamental change in the human rights situation, it is necessary to eradicate the counter-insurgency mentality, which is a source of potential human rights violations, and to promote in its place tolerance, unrestricted public participation and the effective presence of institutions for the protection of human rights.

147. Even though the changes made thus far in the justice system show that in some institutions there is a real desire for change, they are insufficient to lay the foundations for the functioning of a State that respects and safeguards human rights. Changes must be made to ensure the necessary structural transformations, the basic outlines of which are contained in the Peace Agreements, particularly the Agreement on the Strengthening of Civilian Power. The establishment and functioning of the Commission on the Strengthening of the Justice System should provide the country with a historic opportunity to undertake, based on a broad debate, a judicial reform that meets society's tremendous need for an independent, professionally sound justice system which can restore public confidence.

148. Within this framework and without prejudice to the need to increase allocations for all institutions involved in the protection of human rights, the most pressing resource needs are those of the Office of the Counsel for Human Rights and the Public Defender's Office.

149. The Office of the Counsel for Human Rights is vitally important to progress in the human rights situation. It combines the function of promoting human rights and a culture of tolerance with that of protecting those rights through the investigation of reports of violations attributed to State institutions. Its strengthening is specially important at this time of change, because of the decisive role that it will have to play in relation to the Peace Agreements.

150. In order for the National Police to serve its purpose, a general programme for the strengthening of police institutions and for civilian control of the security forces is necessary. It is essential that this programme should include substantially improving the training, equipment and geographical deployment of the police and their integration into the justice system, taking into account the country's multi-ethnic, multilingual and multicultural nature.

151. Public security should be a priority issue for State policy. In order to address it, in keeping with the concept of public security set forth in the Agreement on the Strengthening of Civilian Power, the focus on repression must

be abandoned and progress made in designing a policy of prevention and of protection of citizens' rights in a democratic society.

152. The current situation indicates the need to reorder the importance of the various rights protected by criminal law, placing greater emphasis on respect for the principle of guilt, and to determine alternatives to imprisonment, with the idea that the State should respond with a prison sentence only as a last resort.

153. Fully overcoming the problems stemming from a past characterized by systematic human rights violations is a necessary condition for building a future in Guatemala that will be free of bitterness. In that respect, the Commission established by the Agreement on the Establishment of the Commission to Clarify Past Human Rights Violations and Acts of Violence That Have Caused the Guatemalan Population to Suffer (A/48/954-S/1994/751, annex II) is of critical importance. The parties and all institutions, both State and private, must cooperate fully with it, as provided for in the Agreement on the Integration of URNG.

154. The support given by the State to the public agency that will be responsible, under the National Reconciliation Act, for the mechanisms for compensating victims of human rights violations is also of the utmost importance. Those mechanisms will have to be established in a broad and realistic manner, with the help of international cooperation, and will have to cover not only financial compensation but also measures to support and assist those families and communities which suffered the worst consequences of the internal armed conflict.

155. The Agreement on Indigenous Rights arose from recognition of the history of discrimination against indigenous peoples, as reflected in the lower level of protection of their human rights by comparison with the population at large and the lack of recognition and enjoyment of their specific rights. Full implementation of the Agreement will offer a unique opportunity to reform and strengthen institutions in the process of overcoming discrimination, thereby promoting greater harmony in inter-ethnic relations.

156. The parties have recognized that the origins of the armed conflict and its legacy of human rights violations are to be found in the closing of political avenues for democratic expression and participation. As a result, the consolidation of peace requires the building of a democratic, pluralist State in which there is broad political participation. The State must create opportunities for participation and, as noted in the agreements, mobilize the capacities of all players in society, including indigenous organizations, local corporations, trade unions, women's organizations, universities, non-governmental organizations and other representatives of society, to put forward constructive proposals.

157. In the area of political participation, the proposed amendments to the Elections and Political Parties Act and the creation of a single identity document for both civil and electoral identification purposes, provided for in the Agreement on Constitutional Reforms, will make a major contribution to the strengthening of future electoral processes. The adoption of amendments in this

sphere requires careful planning and scheduling, since their early and effective entry into force will stimulate greater public participation in the entire electoral process and in the country's political life.

158. Rapid approval of amendments to the Act on the Personal Documentation of the Population Uprooted by the Internal Armed Conflict (Decree 13-95) is also needed. Those amendments have been proposed to the Government by the Technical Commission created under the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict (A/48/954-S/1994/751, annex I) and are intended to solve the problems of lack of personal documentation of uprooted population groups, URNG members and anyone else who for one reason or another still does not have such documentation. All Guatemalans will then be able to exercise fully their civil and political rights.

159. In keeping with the change that must take place in the conception of the State, social and economic policies must be put forward that are inclusive of broad sectors of the population which historically were excluded, paying special attention to agrarian issues. The effective participation of the sectors concerned is one of the major challenges facing the Government, along with fiscal reform and the expansion of social spending, all of which are indispensable for implementing the reforms and reaching the targets set in the Agreement on Social and Economic Aspects and the Agrarian Situation.

VII. CONCLUSION

160. The Mission concludes that, during the period covered by this report, major progress was made in complying with the commitments of the Comprehensive Agreement. In particular, a trend was observed towards greater respect on the part of agents of the State for a number of the human rights given priority under the Agreement, including the right to life.

161. The ending of the internal armed conflict, the willingness of the Government to fight crime and impunity, the dismantling of counter-insurgency support structures which had been a source of human rights violations, and increased control by the Government over its agents were important factors in achieving this progress.

162. Nevertheless, the enjoyment of human rights by the population as a whole is still precarious, and Government efforts against crime and impunity have achieved only partial results. The persistence of widespread criminal violence continues to cause a serious lack of public safety and distrust in the institutions responsible for the rule of law.

163. Further progress is being hampered by the continuing weaknesses noted in the institutions responsible for preventing, investigating, trying and punishing serious crimes and human rights violations, a large proportion of which have been impossible to clarify. Added to this there is the alarming proliferation of firearms in the hands of private individuals, the recourse to violence, the failure to abide by the law in resolving private conflicts of various kinds and the discrimination affecting indigenous groups in the exercise of their rights.

164. The Mission believes that the ending of the armed conflict is essential to, but not sufficient for, the achievement of peaceful coexistence in Guatemala. Overcoming once and for all the factors mentioned above will require a major effort to comply with all the agreements signed by the parties. The State as a whole should be committed to this effort, and it should enjoy the backing of civil society and, consequently, receive the support of the international community.

VIII. PROPOSALS AND RECOMMENDATIONS

165. With the signing of the Agreement on a Firm and Lasting Peace, a period has begun in Guatemala in which the full exercise of human rights must be achieved through the implementation of the provisions of the Peace Agreements. Pursuant to its mandate, the Mission wishes to contribute to the efforts which must be made to attain that goal by focusing on those aspects with which it is most familiar as a result of its work and concerning some of which it has formulated recommendations on earlier occasions.

166. Now that the Peace Agreements have been signed, judges and magistrates will have to apply the National Reconciliation Act in accordance with its meaning and its aim of achieving reconciliation without impunity. Prosecutors and judges will be required to proceed with care in order to ensure that the Act benefits only those responsible for crimes committed within the strict context of the armed conflict, as determined by the Act, and at the same time effectively punishes the various crimes which the Act excludes from the extinction of criminal liability. In that respect, impeccable professional conduct on the part of those involved in running the system of justice will be essential in the fight against impunity. The Mission offers its technical cooperation in this connection.

167. The current situation calls for a supreme effort of inter-institutional coordination in Guatemala so that the duties of the State can really be fulfilled effectively. As stated in the Agreement on the Strengthening of Civilian Power, fulfilment of the State's responsibilities requires proper coordination among its institutions. This principle is particularly important in the area of human rights, the effective enjoyment of which depends upon the entire State apparatus.

168. Effective coordination is crucial for improving the State's performance of its duty to guarantee public safety and to fight crime. The need for the National Police, the Public Prosecutor's Office and the judiciary to work together for effective State action will call for an unprecedented level of cooperation which includes middle-ranking officials of the various entities and results in effective decision-making.

169. As the Commission on the Strengthening of the Justice System begins to carry out its work, it is appropriate to reiterate here, with regard to the judiciary, the importance of adopting certain measures to bring about changes in the administration of justice, while preparing other, more far-reaching measures, such as:

(a) Approval of a judicial career law which, based on preparatory work already under way, would give appropriate legislative form to the rights and duties of judges, the system of public competitive examinations for appointments and promotions, and the disciplinary regime, as provided for in the Agreement on the Strengthening of Civilian Power;

(b) Providing the judiciary with the resources needed substantially to increase the remuneration of justices of the peace, judges of first instance, trial judges and appeal court judges, in order to attract professionals of the highest calibre to fill these positions;

(c) Substantially increasing the number of courts of first instance throughout the country, in order to make the justice system accessible to population groups which, in practice, are excluded from it; substantially decreasing the load of each court, in order to speed up the handling of cases and, at the same time, to prevent illegal delegation of judges' functions to auxiliary personnel;

(d) Providing translation services throughout the justice system in order to satisfy the requirement of equal access for those whose mother tongue is not Spanish, as laid down in several of the Peace Agreements;

(e) Ordering that judges and magistrates assume fully their powers, provided by law, to direct court proceedings and that, in exercise of their functions, they curtail the abuse of procedural remedies which are invoked purely as a delaying tactic and which, by holding up the judicial process, have caused public exasperation.

170. Until such time as the Public Prosecutor's Office benefits from the recommendations and suggestions emanating from the work of the Commission on the Strengthening of the Justice System, the following recommendations should be reiterated:

(a) Completion of the formulation of a criminal prosecution policy which focuses the attention of the Public Prosecutor's Office on the most serious crimes and those with the greatest social impact, including human rights violations directly or indirectly attributable to agents of the State, and which provides proper support to the prosecutors in charge of these cases;

(b) Early implementation of the career regulations for the Office so that the appointments situation can be regularized and progress can be made in the formulation of clear criteria for the work of the institution, particularly with a view to enabling prosecutors fully to assume their role as directors of the investigation, with functional real authority over the police;

(c) Expansion and rationalization of the territorial deployment of prosecutors' offices in order to serve both isolated rural areas and the outlying areas of major cities, thereby involving the Public Prosecutors's Office more closely in the investigation of crime;

(d) Provision of the budgetary resources essential for the implementation of the Act on the Protection of Persons Involved in the Conduct of Judicial

Proceedings and Persons Linked to the Administration of Criminal Justice (Decree 70-96).

171. The National Police is facing the challenge of implementing a far-reaching reform in order to transform itself into a public service institution capable of establishing a new relationship with Guatemalan society, in accordance with the model set out in the Agreement on the Strengthening of Civilian Power. Accordingly, measures must be taken to:

(a) Enhance the status of the profession, which entails raising police wages and increasing training requirements and opportunities in order substantially to improve the level of police applicants;

(b) Upgrade the National Police Academy, as a matter of urgency, by improving and expanding its facilities and providing it with the necessary human resources to evaluate and train existing personnel and to select and train new recruits;

(c) Continue the process of purifying existing personnel, on the basis of objective and transparent criteria and without using transfers as a punishment, and, for that purpose, strengthen the Office of Professional Accountability by providing it with the necessary resources and decentralizing its activities;

(d) Instruct police personnel in the regulations governing their work, in terms both of their obligations and of respect for human rights; this educational task must draw on appropriate methods for training police personnel to apply such knowledge to concrete situations;

(e) Structure chains of command clearly and functionally so that powers and responsibilities are clearly determined;

(f) Concentrate the efforts of available police resources on the prevention and prosecution of the most serious crimes and on the enforcement of judicial arrest warrants;

(g) Substantially increase the training and provision of material resources which are indispensable for enhancing police efficiency in the investigation of crime; this will enhance the effectiveness of the security forces, under the functional authority of the Public Prosecutor's Office, in fighting crime on a day-to-day basis;

(h) Appoint the best qualified senior officials to those places and positions where greater levels of social conflict and/or crime will have to be dealt with.

172. With regard to the Public Defender's Office, the direction taken during the period covered by this report must be continued, particularly by means of:

(a) Early approval of the law governing the Public Defender's Office and its efficient implementation, paying particular attention to expansion based on a serious process of selection and training of public defenders;

(b) Provision of budgetary and other resources to ensure the satisfactory performance of its important function, mindful of the autonomy which it is to enjoy by law.

173. The Office of the Counsel for Human Rights must play a greater role in those situations where, pursuant to its constitutional and legal mandate, its intervention is appropriate. In particular, and as in the case of the public entities of the justice system, an institutional strategy is needed which will ensure its active involvement in the most serious problems. To achieve this and to carry out the Office's task of publicizing the Peace Agreements, it is necessary, inter alia, that the budget allocated to it for 1997 be increased, pursuant to the corresponding commitment made in the Comprehensive Agreement and in preparation for the new tasks arising out of the implementation of the Peace Agreements as a whole.

174. With regard to lynchings, which increased during the period covered by this report, the State must take steps to discourage the spread of this phenomenon. First of all, the highest authorities must publicly and emphatically condemn the practice of taking the law into one's own hands. Secondly, as a preventive measure, detainees accused of crimes which have a serious impact on society should be transferred immediately to other localities. Lastly, police officers and the staff of the Public Prosecutor's Office must give priority to the prosecution and punishment of those responsible for the lynchings that have already taken place.

175. Further progress and greater effectiveness are needed in limiting and controlling the use of weapons, pursuant to the commitment made in the Comprehensive Agreement. Given the serious impact of the proliferation of weapons on levels of violence and crime in Guatemala, the Mission feels bound to reiterate this recommendation and to draw attention specifically to the need to:

(a) Amend the Arms and Munitions Act in order to restrict the possession and bearing of arms;

(b) Introduce regular, reliable monitoring of legal and illegal arms import mechanisms and arms sales networks;

(c) Put an end to the massive granting of licences to bear arms, as a means of fighting crime;

(d) Tighten police controls over the bearing of arms;

(e) Ensure that, in the context of the demobilization taking place in the country, weapons issued during the internal armed conflict are in fact returned.

176. From the regulatory standpoint, progress in the protection of human rights requires a legislative effort comprising:

(a) Adoption of a new Penal Code, based both on the need to combat crime effectively and on respect for individual rights. Pending completion of the drafting of this new law, there is a need to review Decree 32-96, which, being based on the erroneous assumption that crime can be fought mainly by imposing

harsher penalties and stiffer pre-trial detention requirements, is not conducive to an effective criminal prosecution policy;

(b) Adaptation of domestic law to the international commitments entered into by Guatemala; in particular, the Mission reiterates that extending the death penalty to crimes to which it did not apply at the time of Guatemala's accession to the American Convention on Human Rights blatantly contravenes that Convention, violates an express obligation entered into internationally by the country and casts Guatemala in a bad light internationally. In addition to this, under article 46 of the Constitution, legislation which is contrary to the American Convention is inapplicable;

(c) Approval of a prison law;

(d) Amendment of the legal regime of amparo to put an end to its current abuse as a delaying tactic, to the detriment of prompt and reliable justice; this should be done without undermining its primordial goal of protecting fundamental rights.

177. Concerning the application of the death penalty, the Mission appeals to the authorities to ensure that, even in cases where domestic law does not conflict with obligations entered into internationally by Guatemala, capital punishment is carried out only after a trial whose outcome leaves no room for doubt. Given the conditions in which the justice system functions, uncertainty about facts or responsibilities should not be accepted as the basis for any trial leading to the imposition of a penalty in respect of which judicial error is irremediable.

178. The Mission hopes that the Guatemalan armed forces, in the context of their considerable efforts to put an end to the internal armed conflict and to accept the institutional changes set forth in the Peace Agreements, will noticeably increase their cooperation in clarifying and punishing crimes and human rights violations in which some of their members may be implicated.

179. Concerning the right of freedom of association, the legislative advances made recently must be improved upon, so that the right to form a trade union cannot be obstructed through the easy recourse of dismissing those who try to exercise it.

180. In the work of preparing the amendments provided for in the Agreement on Indigenous Rights, the broadest possible participation of indigenous peoples, through their representative organizations and institutions, must be promoted. In particular, the Mission recommends to the Government that it establish as soon as possible a forum for dialogue with indigenous sectors, so as to pave the way for the work of the joint commissions provided for in the Agreement.

181. There is an urgent need for the State to set in motion the conflict resolution mechanisms referred to in the Peace Agreements, particularly those related to land disputes.

182. The Mission recommends to the Government that it assign the necessary personnel and resources to plan the incorporation of human rights issues into

the educational system, paying attention to any suggestions and opinions put forward by the Counsel for Human Rights.

Expression of final thanks

183. The Mission appreciates the respectful attitude of the parties, which has enabled it to carry out its mandate fully, and expresses its gratitude to Guatemalan society for the trust it has placed in the Mission.

184. The Mission wishes to reiterate its thanks to the members of the international community, particularly the Group of Friends of the Guatemalan Peace Process, for their permanent willingness to provide political, diplomatic and financial cooperation to that process and for their constant support for the difficult work which MINUGUA must carry out at the request of the parties.

185. Finally, the Mission reiterates its thanks to the agencies and programmes of the United Nations system for their permanent cooperation in the Mission's activities, and to all the staff of MINUGUA, especially the volunteers of various nationalities who have joined in the efforts of the parties and the people of Guatemala to achieve a firm and lasting peace.

Appendix

STATISTICS ON HUMAN RIGHTS VIOLATIONS DURING THE PERIOD
FROM 1 JULY TO 31 DECEMBER 1996

	Complaints admitted	Violations alleged	Violations verified*	Violations confirmed
RIGHT TO LIFE				
Extrajudicial executions or deaths in violation of legal guarantees	41	55	76	22
Attempted extrajudicial executions	8	12	8	5
Death threats	63	101	214	33
Total	112	168	298	60
RIGHT TO INTEGRITY AND SECURITY OF PERSON				
Torture	3	3	13	2
Cruel, inhuman or degrading treatment	15	22	12	7
Ill-treatment	29	41	66	38
Excessive use of force	9	17	23	17
Other threats	55	161	206	79
Total	111	244	320	143
RIGHT TO INDIVIDUAL LIBERTY				
Arbitrary detention	50	64	82	50
Detention in violation of legal guarantees	22	29	20	17
Kidnapping	8	18	13	3
Hostage-taking	1	2	0	0
Enforced disappearance	1	1	2	0
Forcible, unjust or discriminatory recruitment	1	1	2	1
Total	83	115	119	71

	Complaints admitted	Violations alleged	Violations verified*	Violations confirmed
RIGHT TO DUE PROCESS				
Procedural guarantees				
Right to be presumed innocent	4	6	11	8
Right to be judged by a competent, independent and impartial judge	2	3	4	3
Right to be tried within a reasonable time	4	4	5	5
Right to defence and to be assisted by a lawyer	15	17	17	16
Right to be assisted by an interpreter	7	7	5	6
Right not to be compelled to testify against oneself	3	4	5	5
Right of appeal	0	0	0	0
Right of habeas corpus	0	0	0	0
Right of access to the justice system				
Obstruction of the work of the National Police, the Public Prosecutor's Office and the judiciary	14	18	17	15
Legal duty of the State to investigate and punish	95	594	102	82
Right to compensation	4	271	1	1
Legal guarantees for the victim	1	14	0	0
Total	149	938	167	141
POLITICAL RIGHTS	1	1	1	0
Total	1	1	1	0
RIGHT TO FREEDOM OF EXPRESSION	1	1	4	2
Total	1	1	4	2
RIGHT TO FREEDOM OF ASSOCIATION AND ASSEMBLY	21	136	195	100
Total	21	136	195	100
RIGHT TO FREEDOM OF MOVEMENT AND RESIDENCE	8	40	39	35
Total	8	40	39	35

	Complaints admitted	Violations alleged	Violations verified*	Violations confirmed
OTHER VIOLATIONS IN THE INTERNAL ARMED CONFLICT				
Harm or suffering inflicted on civilians	9	111	122	11
Attacks on civilian property	1	1	3	0
Attacks on property essential to the survival of the civilian population	0	0	0	0
Acts of terrorism	0	0	0	0
Failure to protect health workers and religious workers	0	0	0	0
Participation of children under 15 in the internal armed conflict	0	0	0	0
Failure to provide protection and assistance to wounded, captured and disabled combatants	0	0	0	0
Total	10	112	125	11
Grand total	496	1 755	1 260	563

* The figure for violations verified includes complaints admitted in earlier periods.

UNITED NATIONS MISSION FOR THE VERIFICATION OF HUMAN RIGHTS AND COMPLIANCE WITH THE COMMITMENTS OF THE COMPREHENSIVE AGREEMENT ON HUMAN RIGHTS IN GUATEMALA (MINUGUA)
Regional boundary
MINUGUA Headquarters
Regional office
Regional sub-office
MEXICO
BELIZE
HONDURAS
EL SALVADOR
PACIFIC OCEAN
GUATEMALA
PETEN
SANTA ELENA
Belmopan
Gulf of Honduras
HUEHUETENANGO
QUICHÉ
ALTA VERAPAZ
BAJA VERAPAZ
IZABAL
ZACAPA
CHIQUIMULA
JALAPA
SOLOLÁ
QUETZALTENANGO
SAN MARCOS
RETALHULEU
ESCUINTLA
SUCHITEPÉQUEZ
SANTA ROSA
JUTIAPA
PROGRESO
COBÁN
Nebaj
Barillas
Totonicapán
San Marcos
Mazatenango
Escuintla
Cuilapa
Jutiapa
Jalapa
Chiquimula
Puerto Barrios
Salamá
Sierra de Chamá
Sierra de los Cuchumatanes
Sierra de Santa Cruz
Sierra de las Minas
Lago de Izabal
L. de Güija
San Salvador
International boundary
Department boundary
National capital
Department capital
Pan American highway
Road
Railroad
Airport
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September 1995
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Cartographic Section